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# State of South Carolina STATE DOCUMENTS

GARY R. BAKER  
EXECUTIVE DIRECTOR

## State Ethics Commission

(803) 734-1227  
1122 Lady Street, Ste. 930  
Columbia, S.C. 29201

*[newsletter]*

April 1987

No. 87-002

### VOTING OR ACTION CONFLICTS

Throughout its eleven-year history, the State Ethics Commission has issued a large number of advisory opinions and taken action on complaints involving public officeholders participating in matters affecting their financial interests. The State Ethics Act provides that, anytime a public officeholder is required to take action on a matter which will directly and substantially affect his financial interests, he shall:

- (1) File a written statement describing the conflict with his superior. In the case of a member of a governing body, the statement shall be provided to the chairman or presiding officer. This statement is to be made a part of the minutes of any meeting or proceeding.
- (2) The public officeholder shall not participate in votes, deliberations or hearings or take any other official action on the matter. The State Ethics Commission has further advised that the officeholder should not be present in the meeting location at the time of action on the matter on which he has a conflict of interests.

Contact the Commission office if you have any questions concerning the applicability of this provision of the State Ethics Act.

### COMPLAINT ACTIONS

#### SCHOOL BOARD MEMBER CITED FOR FAILURE TO FILE

Vincent Shider, a Colleton County School Board Member, was publicly reprimanded by the State Ethics Commission for failure to file a timely 1986 Statement of Economic Interests. Shider filed his Statement of Economic Interests, which was due April 15, 1986, after the complaint had been lodged.

The complaint, filed by Gary Baker, Commission Executive Director, charged that Shider demonstrated willful disregard for the State Ethics Act in failing to file the Statement after proper notification.

#### ABC COMMISSION EMPLOYEE CITED

Emerson Coates, an employee of the Alcoholic Beverage Control Commission, was cited for having utilized his public position for personal gain. A complaint by a private citizen charged that Coates had on several occasions in 1986 carried personal passengers in his agency-assigned vehicle.

The State Ethics Commission referred the matter to the ABC Commission as a result of an agreement reached by the attorneys. The ABC Commission was requested to take appropriate disciplinary action against Coates.

### LEGISLATION

The General Assembly is considering a variety of legislation concerning the State Ethics Act and the State Ethics Commission.

Eleven bills have been introduced by the House of Representatives Ethics Committee to deal with campaign finance issues and to seek changes in the administration of the law. The bills provide for establishment of separate bank

accounts for election campaign accounts, pre-registration of political committees, and prohibitions against the utilization of campaign funds for personal use. Provisions similar to Federal statutes would prohibit use of public personnel, equipment, and facilities in political campaigns. The bills also provide for the Commission to levy fines for persons late in filing either the Statement of Economic Interests or the Campaign Disclosure Form.

(continued on page 4)



# DIGEST OF ADVISORY OPINIONS

**OPINION: 87-025**                      **November 19, 1986**

**SUBJECT: FORMER PUBLIC EMPLOYEE'S EMPLOYER CONDUCTING BUSINESS WITH THE STATE**

The former Director of the Division of General Services may accept employment with a firm contracting with the Division if his involvement in procurement procedures with that firm was in accordance with Section 8-13-500(1) and R52-10.1. If the former Director is allowed by those exceptions to be employed by the firm, that firm may perform contracts on matters in which the Director did not participate personally and substantially.

Requestor: Tony R. Ellis, Former Director  
Entity: Division of General Services

**OPINION: 87-026**                      **November 19, 1986**

**SUBJECT: COUNCIL MEMBER-CONTRACTOR VOTING ON BUILDING AND FIRE CODES**

A County Councilman who is a licensed building contractor is advised against participation and votes on building codes, fire codes, and enforcement policies for these codes since his contracting business will be affected by the provisions contained therein.

Requestor: Dick Herdklotz, Councilman  
Entity: Greenville County, District 20

**OPINION: 87-027**                      **November 19, 1986**

**SUBJECT: COUNTY COUNCILMAN SURVEYING COUNTY LANDFILL**

A county Councilman who is the only surveyor in the county may survey the site of a landfill provided he takes no action to approve the contract to perform the service for the county.

Requestor: J. Chappell Hurst, Jr., County Administrator  
Entity: Chesterfield County

**OPINION: 87-028**                      **NOVEMBER 19, 1986**

**SUBJECT: ASSISTANT CITY RECORDER REPRESENTING DEFENDANT IN CASE BROUGHT BY CITY POLICE OFFICERS**

An Assistant City Recorder is advised against representation of clients on charges brought by the City Police Department in General Sessions Court.

Requestor: Steven E. Mundy, Esquire, Representing  
Entity: Abbeville Assistant Recorder

**OPINION: 87-029**                      **November 19, 1986**

**SUBJECT: CITY COUNCILMAN VOTING ON SUBDIVISION APPROVAL**

A mayor and city councilmember are advised against participation in deliberations and votes on a subdivision approval since both were litigants in a class action suit involving the project and further own property adjacent in the project. Another councilmember is advised against participation in deliberations and votes on the same matter since he operates an establishment owned by the project developers.

Requestor: Carmen R. Bunch, Mayor  
Entity: City of Isle of Palms

**OPINION: 87-030**                      **November 19, 1986**

**SUBJECT: SCHOOL TRUSTEE AS SUBSTITUTE TEACHER IN SCHOOL DISTRICT**

The State Ethics Act does not prohibit a school board trustee from being employed as a substitute teacher in the same school district. The Commission advised that legal advice be obtained concerning the applicability of Section 59-19-300.

Requestor: Frank A. Lyles, Esquire  
Entity: Spartanburg School District #7

**OPINION: 87-031**                      **January 21, 1987**

**SUBJECT: REPORTING OF POLITICAL PARTY NEWSLETTER EXPENSES**

The State Ethics Commission advises that expenses associated with a newsletter published prior to the general election should be reported on the Campaign Disclosure Form since the newsletter was not a regular party newsletter and since the newsletter was sent to additional persons to promote the party candidates.

Requestor: David Morris, Treasurer  
Entity: S.C. Libertarian Party

**OPINION: 87-032**                      **January 21, 1987**

**SUBJECT: CITY COUNCILMEMBER ACCEPTING VOUCHERS FROM TENANTS**

There does not appear to be any conflict in a city councilmember accepting housing vouchers from clients of the City Housing Authority since the Councilmember has no control over the Housing Authority or the issuance of the vouchers.

Requestor: Stephen A. Kern, City Attorney  
Entity: City of Greenville



**OPINION: 87-033**

**January 21, 1987**

**SUBJECT: BOARD MEMBER LEASING  
PROPERTY TO FIRE DISTRICT**

A Fire District Board Member may lease property to the District provided he follows the procedures of Section 8-13-460 in any matters affecting the lease and may not otherwise participate in preparing specifications, approving the lease, or taking other action on the lease.

Requestor: Vicki M. Gannon, Secretary  
Entity: Old Fort Fire District

**OPINION: 87-034**

**March 18, 1987**

**SUBJECT: COUNTY COUNCILMAN VOTING  
ON SCHOOL DISTRICT FISCAL AUTONOMY**

A county councilman who is employed in a county school district may participate in deliberations and votes on a resolution calling for fiscal autonomy for the county school districts. The resolution would not have a direct financial benefit for either the councilman or the school district.

Requestor: C. Dennis Aughtry, Deputy County Attorney  
Entity: Richland County

**OPINION: 87-035**

**March 18, 1987**

**SUBJECT: ETV EMPLOYEE MARKETING  
COMPUTERIZED EDITING PROGRAM**

An employee of ETV who has developed a computerized editing program on his own time without utilization of public facilities or equipment may market his program. He is advised against utilizing his position or the agency in any advertising.

Requestor: Jane H. Livingston, Personnel Director  
Entity: S.C. Educational Television

**OPINION: 87-036**

**March 18, 1987**

**SUBJECT: BOARD MEMBER RELATED TO  
AGENCY EMPLOYEE**

A person who is related to an agency employee may be appointed to the agency board; however, the State Ethics Commission advises that the procedures of Section 8-13-460 be followed in matters involving the relative to preclude even the appearance of impropriety.

Requestor: Benjamin D. Moore, Esquire  
Entity: Pee Dee Regional Transportation Authority

**OPINION: 87-037**

**March 18, 1987**

**SUBJECT: OFF-DUTY EMPLOYMENT OF  
DHEC EMPLOYEE**

A DHEC employee may engage in landscape design work provided he does not engage in such work with property owners whose land he has inspected. The outside work should be closely monitored to ensure that the public

position is not utilized to obtain such work. If the employee is required to follow the provisions of section 8-13-460 frequently, he should consider disassociation from the design business or the agency.

Requestor: R. Chris Bottoms, R.S.  
Entity: Oconee County Health Department

**OPINION: 87-038**

**March 18, 1987**

**SUBJECT: OFF-DUTY EMPLOYMENT OF  
DHEC EMPLOYEE**

A DHEC employee may engage in the warehousing and wholesaling of water filters provided he does not engage in business with dealers subject to his regulation. The outside work should be closely monitored to ensure that the public position is not utilized to obtain such business. If the employee is required to follow the provisions of Section 8-13-460 frequently, he should consider disassociation from the outside business or agency.

Requestor: F. Phillip Ward, Employee  
Entity: Department of Health and Environmental Control

**OPINION: 87-039**

**March 18, 1987**

**SUBJECT: AUTHORITY CHAIRMAN SEEKING  
POSITION AS AUTHORITY MANAGER**

The State Ethics Act does not prohibit a chairman of a water and sewer authority from obtaining employment as the manager of the authority. A person allowed to serve in two public positions may not take action or make decisions which will affect his other position. The Commission expressed concern that the chairman would be serving as both a master and servant if employed by the authority. While this master-servant relationship is not technically prohibited by the State Ethics Act, the Commission advised against the chairman serving in both capacities.

Requestor: Robert M. Bell, Attorney  
Entity: Valley Public Service Authority

**OPINION: 87-040**

**March 18, 1987**

**SUBJECT: PLANNING AND ZONING  
COMMISSION DISCUSSING AND VOTING ON  
ZONING ORDINANCE**

The mere fact that a member of a zoning commission has associations which may benefit from an action is not sufficient criteria to require that the member follow the procedures of Section 8-13-460. Only when matters involved would directly affect the official's financial interest or those of a client would he be required to follow the provisions of Section 8-13-460.

Requestor: The Honorable Henry C. Hester, Mayor  
Entity: City of North Myrtle Beach



## LEGISLATION

(continued from page 1)

Bills have been introduced to provide more comprehensive disclosure of financial interests on the Statement of Economic Interests and to include board members of state agencies in the filing requirements.

Other bills have been introduced to prohibit

representation of clients before certain boards or commissions.

The House of Representatives is also considering a bill providing for lobbyists to register and report to the State Ethics Commission. The bill would provide more comprehensive disclosure of lobbyists expenses than is required under the present lobbying statute.

### State Ethics Commission

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